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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,099	08/07/2003	Robert R. Gallucci	RD27416-2	3376
23413	7590	11/15/2006	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			TRAN, THAO T	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/638,099

Applicant(s)

GALLUCCI ET AL.

Examiner

Thao T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8 and 10-23 is/are pending in the application.
4a) Of the above claim(s) 3,12-14,20 and 23 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,4,5,7,8,10,11,15-19,21 and 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/22/06.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the Amendment filed on 8/22/2006.
2. By this Amendment, claims 1, 3-5, 7-8, 10-23 are pending in this application. Claims 1 and 19 have been amended.
3. Claims 3, 12-14, 20, and 23 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, as indicated in the Paper filed 10/22/2004.
4. In view of the prior Office action, the rejections of the claims over Iacovangelo '694 have been withdrawn due to the Amendments made thereto. The ODP and the rejection of the claims as anticipated by Iacovangelo '032 are maintained below.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 4-5, 7-8, 10-11, 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 19 contain the newly added limitations "wherein the reflective metal layer is in contact with the haze-prevention layer;" and "wherein the haze-prevention layer is in contact with the substrate", that have no adequate support in the specification as originally

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presented. In paragraph 0007 of the specification, it is disclosed that the haze-prevention layer is interposed between the substrate and the reflective layer. However, there is nowhere in the specification that discloses the haze-prevention layer being in contact with the substrate and the reflective layer.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 4-5, 7-8, 10-11, 15-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,420,032.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claims of the patent overlaps that of the instant claims, rendering them obvious over each other.

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The claims of the patent disclose all of the limitations as recited in the instant claims. However, independent claims 1, 17, and 35 of the patent disclose the transparent metal oxide layer; whereas instant claims 1, 19, and 21 disclose a haze-prevention layer. Thus, the scope of the claims of the patent overlaps that of the instant claims, rendering them obvious over each other.

Note that the abrasion resistant layer or scratch resistant layer in claims 25-28, 36 of the patent is considered as the protective layer in the instant claims.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1, 7-8, 10-11, 16-17, 19, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Iacovangelo (US Pat. 6,420,032).

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Iacovangelo discloses a laminate, comprising a polymeric substrate 1, an interlayer 5 (haze-prevention layer), a reflective metal layer 2, a metal oxide UV absorbing layer 3, and an abrasion resistant layer 4 (protective layer) (see Fig. 3A-D; col. 6, ln. 13-44). The polymeric

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substrate comprises a thermoplastic resin, such as polyetherimide or polyethersulfones (see col. 2, ln. 35-37; col. 4, ln. 29-36). The interlayer and the abrasion resistant layer comprise a plasma-polymerized organosilicon as recited in the instant claims (see col. 6, ln. 19-37). The reflective metal layer comprises aluminum or silver (see col. 5, ln. 36-42). Iacovangelo further discloses an interlayer 6 of aluminum, between layers 3 and 4 (see Fig. 3C; col. 6, ln. 59-66), which also meets the requirement of the reflective metal layer in the claims.

It is further noted that Fig. 3C illustrates that the reflective metal layer 2 is in contact with interlayer 5, which in turn is in contact with substrate 1, thus meeting the newly added limitation.

With respect to the properties, such as heat distortion, volume resistivity, and tensile modulus, since the reference teaches the same article with the same chemical components, the article of the reference would inherently have the same properties as the presently claimed invention.

With respect to the properties, such as heat distortion, volume resistivity, and tensile modulus, since the reference teaches the same article with the same chemical components, the article of the reference would inherently have the same properties as the presently claimed invention.

Response to Arguments

11. Applicant's arguments filed on 08/22/2006 have been fully considered but they are not persuasive.

In response to Applicants' argument with respect to the obviousness-type double patenting, it is noted that the patented claim 1 discloses a multilayer structure, comprising a

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substrate, a metal layer, and a metal oxide layer. Patented claims 2 and 3 disclose the substrate to be of the polymeric material, which reads on the substrate of the instant claims. Patented claim 4 discloses the metal layer comprising at least one of aluminum and silver, which reads on the reflective layer of the instant claims. Patented claims 8 and 9 disclose an interlayer comprising a plasma polymerized organosilicon between the substrate and the metal layer, which reads on the haze-prevention layer of the instant claims. Thus, the scope of the patented claims is broader than that of the instant claims, rendering them obvious over each other.

In response to Applicants' argument that Iacovangelo '032 does not teach the presently claimed protective layer. According to Applicants, Iacovangelo does not teach a layer having the chemical compounds as recited in instant claim 1 that is on top of and in direct contact with the reflective metal layer. However, as pointed out before, in Figure 3C, for example, Iacovangelo discloses the abrasion resistant layer 4 is formed over the interlayer 6; wherein the abrasion resistant layer 4 is made of an organosilicon compound and the interlayer 6 of aluminum (see col. 6, ln. 19-21, 59-66). Hence, layer 4 and interlayer 6 of the '032 reference meet the requirements of the presently claimed protective layer and metal layer respectively. It is further noted that the reference also teaches a scratch resistant coating (see claim 36), which appears to read on the presently claimed protective layer.

12. In summary, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

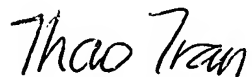
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thao T. Tran
Primary Examiner
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November 13, 2006